

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KENNETH BECKER,

Plaintiff,

v.

Civil Action No. _____

MERCANTILE ADJUSTMENT BUREAU, LLC,

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for actual and statutory damages brought in response to Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION AND VENUE

2. Jurisdiction of this court arises under 15 U.S.C. §1692k(d), 28 U.S.C. § 1331, and 28 U.S.C. § 1337.
3. Venue is proper in this district under 28 U.S.C. §1391(b) in that the Defendant transacts business here and the conduct complained of occurred here.

III. PARTIES

4. Plaintiff, Kenneth Becker, is a natural person residing in the County of Erie and State of New York and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).
5. Defendant, Mercantile Adjustment Bureau, LLC, (hereinafter "Mercantile") is a domestic limited liability company organized and existing under the laws of the State of New York and is a "debt collector" as that term is defined by 15 U.S.C. §1692a(6).
6. Defendant regularly attempts to collect debts alleged to be due another.
7. The acts of the Defendant alleged hereinafter were performed by its employees acting within the scope of their actual or apparent authority.

8. All references to “Defendant” herein shall mean the Defendant or an employee of the Defendant.

IV. FACTUAL ALLEGATIONS

9. That Plaintiff incurred a credit card debt to Credit One Financial Solutions. This debt will be referred to as “the subject debt.”
10. That the subject debt arose out of a transaction in which money, services or property, which was the subject of the transaction, was primarily for personal, family and/or household purposes. As such, said debt is a “debt” as that term is defined by 15 U.S.C. §1692a(5).
11. That Plaintiff thereafter defaulted on the subject debt.
12. That upon information and belief Defendant was employed by Credit One Financial Solutions to collect on the subject debt.
13. That in or about August, 2010, Defendant began calling Plaintiff multiple times per week, often multiple times per day, in an attempt to collect on the subject debt.
14. That after already speaking with the Plaintiff and possessing his contact information including his telephone number where he could be reached, Defendant contacted Plaintiff’s parents at their home telephone number.
15. That during this telephone call on or about August 30, 2011, Defendant disclosed to Plaintiff’s sister that they were a debt collector and to have her brother or his attorney contact them.
16. That Plaintiff’s sister informed the Plaintiff of this message and he reasonably believed, as the “least sophisticated consumer”, as that term is defined by law, would have believed that Defendant’s statements threatened or implied the imminent filing of a lawsuit or some other type of legal proceeding being commenced against the Plaintiff.
17. That as a result of Defendant’s acts Plaintiff became nervous, upset, anxious, and suffered from emotional distress.

V. CAUSE OF ACTION

18. Plaintiff repeats, re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 17 above.
19. The conduct of Defendant as described in this complaint violated the Fair Debt Collection Practices Act (15 U.S.C. §1692 et seq.) as follows:

- A. Defendant violated 15 U.S.C. §1692b(1), 15 U.S.C. §1692b(2) and 15 U.S.C. §1692c(b) for calling Plaintiff's family and disclosing that Plaintiff owes a debt. and calling a third party when Defendant already had good contact information for Plaintiff and by calling Plaintiff's parents for purposes other than correcting or confirming location information.
- B. Defendant violated 15 U.S.C. §1692e and 15 U.S.C. §1692e(2), 15 U.S.C. §1692e(5), and 15 U.S.C. §1692e(10) by using false and misleading representations when stating to the Plaintiff's sister to have her brother's attorney contact them.

20. That as a result of the Defendant's FDCPA violations as alleged herein, Plaintiff became nervous, upset, anxious and suffered from emotional distress.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendant for:

- (a) Actual damages;
- (b) Statutory damages for pursuant to 15 U.S.C. § 1692k.
- (c) Costs, disbursements and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.
- (d) For such other and further relief as may be just and proper.

VI. JURY DEMAND

Please take notice that Plaintiff demands trial by jury in this action.

Dated: June 28, 2011

/s/ Seth J. Andrews
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